UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEVIN P. FITZPATRICK, et al., Plaintiffs, v. AMERICAN INTERNATIONAL GROUP, INC. and AIG GLOBAL REAL ESTATE INVESTMENT CORPORATION, Defendants.	No. 1:10-cv-142 (MHD)

MEMORANDUM OF LAW IN SUPPORT OF THE DEFENDANTS' MOTION TO SEAL

Defendants American International Group, Inc. ("AIG") and AIG Global Real Estate Investment Corporation ("AIGGRE" collectively with AIG, the "Company") submit this Memorandum of Law in Support of their Motion to Seal Exhibits 5, 6, 10, 11, 14, and 18 attached to the plaintiffs' January 21, 2011 letter to the Court (the "January 21 Letter"). The defendants make this Motion to Seal pursuant to the terms of the Protective Order Governing the Use of Confidential Information (the "Protective Order") in this action, which provides for the sealing of documents containing "Highly Confidential Information" and "Confidential Information."

The Defendants request to seal Exhibit 5 both because it meets the sealing standards of the Protective Order and because it is a facially privileged document that inadvertently was produced. Pursuant to Section B.5 of the Protective Order inadvertent production of attorney-client protected information shall not be deemed a waiver of such privilege and the producing party may request the return of such documents upon becoming aware of their existence, which is precisely what the defendants did upon receipt of the plaintiffs' January 21 Letter.

Exhibit 5 was inadvertently produced by non-party Ernst & Young LLP. After the production, the defendants identified an iteration of Exhibit 5 and, by letter dated December 6, 2010, issued to the plaintiffs a written request to destroy all copies of this document. (See Exhibit 1 attached hereto). The plaintiffs did not object to the defendants' request and the defendants reasonably believed it had been honored. Nevertheless, after receiving notice of the defendants' privilege claim, the plaintiffs attached an almost identical iteration as Exhibit 5 to their January 21 Letter. Separately, upon receipt of the January 21 Letter, the defendants requested that the plaintiffs return Exhibit 5 on January 25, 2011. (See Exhibit 2 attached hereto) Consequently, the defendants respectfully request that Exhibit 5, which is an attorney-client privileged communication, be sealed in order to protect it from becoming publicly available on the Court's ECF filing system.

Under the terms of the Protective Order, the Court also has sealed, among other documents: (a) copies of the agreements governing the Tribeca program;[1] and (b) documents discussing the organization and payment structure of the Tribeca program. The defendants also respectfully request that the Court again seal such documents.

Specifically, Exhibits 6, 10, and 11 to the plaintiffs' January 21 Letter concern the preparation and issuance of a report coordinated by AIG's Internal Audit Department following its audit of the Tribeca program in February 2009. The Court has previously sealed copies of Exhibit 11, which is the final audit report, by Orders dated July 16, 2010, October 13, 2010, and November 27, 2010. Exhibit 6 contains substantially the same information as Exhibit 11, as it is a summary of the contents of the February 2009 audit report in e-mail form. Exhibit 10 is a planning memorandum dated July 25, 2008, which outlines the scope of the audit and contains sensitive, non-public information relevant to the audit and the Tribeca program, much of which is very similar to the information in Exhibit 11.

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[1] The Tribeca program is the AIGGRE incentive compensation program, which is comprised of a network of entities that includes the "Chelsea" and "Murray Hill" entities. In addition, AIGGRE employees can invest their personal capital through "Soho" entities, which also have governing agreements. These agreements contain a provision requiring information related to the program to be kept confidential and not publicly disclosed.

Both Exhibits 14 and 18 also contain non-public, sensitive information about the Tribeca program, including information related to the internal ownership structure of the Tribecas and procedures for the payment of profit interests pursuant to the Tribeca program. Exhibit 14 is an internal e-mail chain that discusses the internal procedures for the payment of profit interests pursuant to the Tribeca program. Exhibit 18 is an excerpt from the deposition transcript of Tracy Bress, a Vice President within the accounting department at AIGGRE. In this excerpt, Ms. Bress discusses the internal structure and procedures for the payment of profit interests.

The public availability of these exhibits on the Court's ECF filing system could harm the Company and cause it to potentially violate the confidentiality provisions included within the Tribeca agreements. Accordingly, the defendants respectfully request that the Court grant this motion and enter an Order sealing Exhibits 5, 6, 10, 11, 14, and 18 to the January 21 Letter.

Dated: January 28, 2011
New York, New York

/s/ Keara M. Gordon

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